IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

REGGENAL G. SMITH,	§	
	§	
Plaintiff,	§	
	§	
v.	§	**CIVIL ACTION NO.** 6:14-CV-390
	§	
FLEETWOOD HOMES a/k/a	§	
FLEETWOOD HOMES OF TEXAS;	§	
FLEETWOOD HOMES, INC., and	§	
CAVCO INDUSTRIES, INC.,	§	
	§	
Defendants.	§	

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A-3 Officer's Return for Fleetwood Homes, Inc.

A-4 Officer's Return for Cavco Industries, Inc.

A-5 Defendants' General Denial and Affirmative Defenses

EXHIBIT
A

FILED
MCLENNAN COUNTY
8/26/2014 3:38:50 PM
KAREN C. MATKIN
DISTRICT CLERK
Laura Higgins

COPY

NO. 2014-3334-4

REGGENAL G. SMITH, **Plaintiff**	§	**IN THE DISTRICT COURT**
	§	
	§	
V.	§	**170 th JUDICIAL DISTRICT**
	§	
FLEETWOOD HOMES also known as **FLEETWOOD HOMES OF TEXAS;**	§	
FLEETWOOD HOMES, INC.; & **CAVCO INDUSTRIES, INC.,**	§	
Defendants	§	**MCLENNAN COUNTY, TEXAS**

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff, Reggenal G. Smith, complains of Fleetwood Homes also known as Fleetwood Homes of Texas (Defendant 1); Fleetwood Homes, Inc. (Defendant 2); and Cavco Industries, Inc. (Defendant 3), hereinafter referred to jointly as "Defendants," and for cause of action would show the Court and Jury the following:

Discovery Control Plan

1. Discovery shall be conducted under *Texas Rule of Civil Procedure* 190.4 (Level 3).

Parties/Venue

2. Plaintiff is Reggenal G. Smith, an individual who is a resident of Texas. The last 3 digits of Plaintiff's driver's license are 977. The last 3 digits of Plaintiff's Social Security number are 932.

3. The incidents in question occurred at Defendants' business location at 2801 Gholson Road, Waco, McLennan County, Texas.

4. Defendants are entities, one or more of which, employed Plaintiff and discharged him

EXHIBIT
A-1

from employment by them on or about January 27, 2014. Plaintiff brings this suit under the authority of *Texas Rule of Civil Procedure* 28, which allows any partnership, unincorporated association, private corporation, or individual doing business under an assumed name to sue or be sued in its partnership, assumed or common name. At all relevant times related to this suit, Defendants were doing business under the name "Fleetwood Homes" and/or "Fleetwood Homes of Texas;" "Fleetwood Homes, Inc.," and "Cavco Industries, Inc." at 2801 Gholson Road, Waco, McLennan County, Texas and used those names as the common and/or assumed name(s) for the true entities which employed, discriminated against, and terminated Plaintiff's employment on January 27, 2014 at said location. Therefore, Plaintiff uses those names in bringing this suit against the true entity or entities that employed, discriminated against, and discharged Plaintiff from employment with it. Plaintiff brings this suit against the true entity or entities with which Plaintiff was employed, discriminated against, and was discharged from employment on or about January 27, 2014. However, should it be determined later that entities, other than those actually named herein as defendants, were the entities that also used the above names in employing, discriminating against, and terminating Plaintiff, Plaintiff reserves the right to amend this suit to include the true names of those entities as a defendant herein.

Defendants, Fleetwood Homes also known as Fleetwood Homes of Texas; Fleetwood Homes, Inc.; and Cavco Industries, Inc., may be served with process by serving their registered agent for service: Corporation Service Company, 211 E 7th Street, Suite 620, Austin, Texas 78701-3218.

Facts

5. Plaintiff was a 19 year employee of Defendants working in electrical maintenance at Defendants' manufactured home plant at 2801 Gholson Road, Waco, Texas. Plaintiff worked as a

full time employee of Defendants until he was discharged on or about January 27, 2014.

6. For several months prior to his termination, Plaintiff was subjected to a racially hostile work environment by his supervisor and other employees, while working in the course and scope of his employment for Defendants. The supervisor used racial slurs regarding the Black race and treated Plaintiff differently than the other White employees because of Plaintiff's race/color. Plaintiff complained to Defendants' management about the racial slurs, racist remarks and disparaging treatment by the supervisor and about racial slurs by another employee.

7. On January 23, 2014, Plaintiff went into the office to get needed paperwork. As an electrical maintenance worker for Defendants, Plaintiff carried tools with him in performing his daily work. While Plaintiff was in the office, he inadvertantly picked up a tape measure and did not realize it was not his tape measure until he left the office and gone to another part of the plant. When he realized the tape measure was not his a few minutes after he left the office, Plaintiff placed it in an unlocked locker until he could determine where it belonged and return it. On the same day Plaintiff took the tape measure, another employee, who either owned or was in charge of the tape measure, asked Plaintiff if he had seen the tape measure. The employee asked him prior to him having a reasonable opportunity to return the tape measure. Plaintiff quickly told the employee that he had inadvertently taken the tape measure and told the employee where it was located in the locker. In the past, Plaintiff had borrowed a tape measure and other tools from this employee without any problem. To Plaintiff, this seemed like an insignificant occurrence in his day.

8. However, on January 27, 2014, Plaintiff was called into the plant office by his supervisors (including the supervisor which Plaintiff had complained about to management regarding illegal racial discrimination) and accused of "stealing" the tape measure, even though Plaintiff had

not even removed the tape measure from the plant and had given it back to the employee. Without discussion about or consideration of any lesser discipline, Plaintiff was immediately terminated allegedly for this bogus trumped up theft charge, after 19 years of work for Defendants with a good disciplinary and work record.

Causes of Action

9. Plaintiff is Black and is a member of the African-American race. As described above, Plaintiff was subjected to a racially hostile work environment and retaliated against for complaining of racial discrimination by having his job terminated, which is prohibited by the Texas Commission on Human Rights Act, Texas Labor Code §§ 21.001 et seq., hereinafter "the Texas Human Rights Act" or "TCHRA." At all times relevant to this action, Plaintiff was an "employee" and Defendants were "employers" as that term is defined under the Texas Human Rights Act.

10. Defendants' action in discharging Plaintiff constituted discrimination against Plaintiff on the basis of race-African American, color-Black, and retaliation, in violation of the Texas Human Rights Act, § 21.051 & § 21.055 resulting in damages as hereinafter set forth.

Damages

11. As a result of the violation of § 21.051 & § 21.055 of the Texas Labor Code, Plaintiff has lost past and future wages and benefits of employment. Further, Plaintiff has suffered past and future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, loss of reputation, and other nonpecuniary losses. Plaintiff hereby sues for reimbursement of said damages.

Administrative Prerequisites

12. All conditions precedent to the cause of action under the Texas Labor Code have been

performed or have occurred, including exhausting all required administrative remedies. Plaintiff timely filed a complaint against Defendants with the Texas Workforce Commission-Civil Rights Division (TWCCRD), as required by the above referred to statute, cooperated with the investigation of said commission, and received a right to sue from the TWCCRD before filing suit.

Punitive Damages

13. Defendants' wrongful action in terminating Plaintiff was done knowingly, intentionally, with malice and/or recklessly in violation of Plaintiff's state protected rights; therefore, Plaintiff is entitled to recover punitive damages from Defendants.

Rule 47 Limitation on Monetary Damages

14. Plaintiff seeks monetary damages in an amount to be set by a jury in whatever amount the jury determines to be fair and just. However, because T.R.C.P. 47 requires that a damage range be set forth in this pleading, Plaintiff states that he seeks monetary relief of over $200,000 but not more than $1,000,000. In the alternative, if the jury decides that Plaintiff's damages do not exceed $200,000, then Plaintiff seeks damages of over $100,000 but not more than $200,000.

Attorney Fees

15. Plaintiff has also had to employ an attorney to vindicate his rights for being terminated, and seeks reasonable and necessary attorney fees.

Prayer

WHEREFORE, Plaintiff requests the Defendants be cited to appear and answer, and that on final hearing Plaintiff be awarded damages, as stated above, in an amount within jurisdictional limits of the Court, punitive damages related to his discharge, costs of court, and such other relief, both at law and in equity, as Plaintiff may be justly entitled.

WASH & THOMAS
Attorneys at Law
6613 Sanger Ave.
Waco, Texas 76710
(817) 776-3611
(817) 776-9217 - Fax Number
Email- danwash@washthomas.com

BY: /s/ Danny C. Wash
Danny C. Wash
State Bar No. 20896000
Attorney for Plaintiff

PLAINTIFF HEREBY RESPECTFULLY DEMANDS A TRIAL BY JURY

FILED Roberta Jewell
MCLENNAN COUNTY
9/3/2014 9:06:25 AM
KAREN C. MATKIN
DISTRICT CLERK

CITATION

PAPER# 1
CEN-TEX

ORIGINAL

THE STATE OF TEXAS

Cause No: 2014-3334-4

TO: FLEETWOOD HOMES A/K/A FLEETWOOD HOMES OF TEXAS, DEFENDANT - BY SERVING THEIR REGISTERED AGENT, CORPORATION SERVICE COMPANY

GREETINGS:

YOU ARE HEREBY COMMANDED to appear before the Honorable District Court below, of McLennan County, Texas, at the Courthouse of said County located at 501 Washington Avenue in Waco, Texas, by filing a written answer with the Clerk of the Court, at or before 10 o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation, to the pleading described below, in the cause number described below on the docket of said court, and styled,

PARTIES TO THIS ACTION ARE:

REGGENAL G. SMITH Plaintiff

VS.

FLEETWOOD HOMES A/K/A FLEETWOOD HOMES OF TEXAS, FLEETWOOD HOMES, INC., AND CAVCO INDUSTRIES, INC. Defendants

Court: **170TH JUDICIAL DISTRICT**
Pleading: **PLAINTIFF'S ORIGINAL PETITION**
Pleading File Date: **AUGUST 26, 2014**
Cause No: **2014-3334-4**

NOTICE

You have been sued. You may employ an attorney. If you or your attorney does not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and the above pleading, a default judgment may be taken against you.

The officer executing this citation shall promptly serve the same according to requirements of law, and the mandates hereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL OF OFFICE, at Waco, McLennan County, Texas.
Issue Date: **AUGUST 28, 2014.**

DANNY C. WASH
6613 SANGER AVE.
WACO, TEXAS 76710

Attorney for Plaintiff

Karen C. Matkin, District Clerk
P.O. Box 2451
Waco, McLennan County, Texas 76703
By: _______________, Deputy
MAXINE BARTON

EXHIBIT
A-2

1 4 9 0 4 2 5 7 1

RETURN OF SERVICE

Style: **REGGENAL G. SMITH VS. FLEETWOOD HOMES A/K/A FLEETWOOD HOMES OF TEXAS, FLEETWOOD HOMES, INC., AND CAVCO INDUSTRIES, INC.**
Cause No: **2014-3334-4**
Court: **170TH JUDICIAL DISTRICT**
Paper#: **1**
Pleading: **PLAINTIFF'S ORIGINAL PETITION**

Came to hand on the _____ day of _______________, 20____ at ______o'clock _____M. and executed on the ____ day of _______________________, 20_____ by delivering to the party designated in the citation, to-wit: ____

____

at ________o'clock ___M; in person, a true copy of this citation with a true and correct copy of the pleading attached thereto, having first endorsed on such copy of said citation the date of delivery.

FEES: Serving one (1) copy ________________________________

Total $_______________ ________________________________ County, Texas

NO SHERIFF OR CONSTABLE FEES COLLECTED

By ________________________________

NOT EXECUTED FOR THE FOLLOWING REASONS ________________________________

and having attempted on ____.

"My name is _______________________ (First) __________ (Middle) ___________________________ (Last), my date of birth is ____________________________________, and my address is _____________________ ____.

I declare under penalty of perjury that the foregoing is true and correct. Executed in _______________ County, State of Texas, on the _________ day of _____________________ (Month) ________ (Year)

____ (Signature) Declarant"

See Attached Return of Service

COURT: 170th District
COUNTY: McLennan
NO: 2014-3334-4

AFFIDAVIT OF SERVICE

Business/Corporation

Plaintiff

Reggenal G. Smith

Defendant

Fleetwood Homes also known as Fleetwood Homes of Texas; Fleetwood Homes, Inc., & Cavco Industries, Inc

I, Mark S. Burrow, make statement to the fact; that I am a person more than 18 years of age and not a party to this action. I am an approved Process Server authorized by the Supreme Court of the State of Texas and remain in good standing. I received the documents stated below on **August 29, 2014** at the time of **09:04 AM.**

That I delivered to:	Fleetwood Homes a/k/a Fleetwood Homes of Texas, by serving their Registered Agent, Corporation Service Company
At the address of:	211 East 7th Street, Suite 620, Austin, Texas 78701 in County of Travis
On this date and time:	September 02, 2014 at 1:30 PM
In the manner:	By personally delivering the document(s) to the AUTHORIZED PERSON, Kelly Courtney, Receiving Clerk
The following documents:	Citation; Plaintiff's Original Petition

I SOLEMNLY AFFIRM under the penalties of perjury that the contents of the foregoing paper are true, correct, and within my personal knowledge.

Mark S. Burrow, SCH275
Exp. Date: 12/31/2015

Subscribed and sworn to before me, a notary public, on the 2nd day of September 2014, by the affiant who is personally known by me.

Sofia Dominguez
Notary of Public for the State of Texas

SOFIA DOMINGUEZ
Notary Public, State of Texas
My Commission Expires
May 14, 2017

Wash and Thomas
Ref#:
Job ID: 14-021768

Service Fee: $45.00

FILED Roberta Jewell
MCLENNAN COUNTY
9/3/2014 9:06:25 AM
KAREN C. MATKIN
DISTRICT CLERK

CITATION

PAPER# 2
CEN-TEX

ORIGINAL

THE STATE OF TEXAS

Cause No: 2014-3334-4

TO: FLEETWOOD HOMES, INC., DEFENDANT - BY SERVING THEIR REGISTERED AGENT, CORPORATION SERVICE COMPANY

GREETINGS:

YOU ARE HEREBY COMMANDED to appear before the Honorable District Court below, of McLennan County, Texas, at the Courthouse of said County located at 501 Washington Avenue in Waco, Texas, by filing a written answer with the Clerk of the Court, at or before 10 o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation, to the pleading described below, in the cause number described below on the docket of said court, and styled,

PARTIES TO THIS ACTION ARE:

REGGENAL G. SMITH — Plaintiff

VS.

FLEETWOOD HOMES A/K/A FLEETWOOD HOMES OF TEXAS, FLEETWOOD HOMES, INC., AND CAVCO INDUSTRIES, INC. — Defendants

Court: **170TH JUDICIAL DISTRICT**
Pleading: **PLAINTIFF'S ORIGINAL PETITION**
Pleading File Date: **AUGUST 26, 2014**
Cause No: **2014-3334-4**

NOTICE

You have been sued. You may employ an attorney. If you or your attorney does not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and the above pleading, a default judgment may be taken against you.

The officer executing this citation shall promptly serve the same according to requirements of law, and the mandates hereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL OF OFFICE, at Waco, McLennan County, Texas.
Issue Date: **AUGUST 28, 2014.**

DANNY C. WASH
6613 SANGER AVE.
WACO, TEXAS 76710

Attorney for Plaintiff

Karen C. Matkin, District Clerk
P.O. Box 2451
Waco, McLennan County, Texas 76703

By: Maxine Barton, Deputy
MAXINE BARTON

EXHIBIT
A-3

1 4 9 0 4 2 1 8 I

RETURN OF SERVICE

Style: **REGGENAL G. SMITH VS. FLEETWOOD HOMES A/K/A FLEETWOOD HOMES OF TEXAS, FLEETWOOD HOMES, INC., AND CAVCO INDUSTRIES, INC.**
Cause No: **2014-3334-4**
Court: **170TH JUDICIAL DISTRICT**
Paper#: **2**
Pleading: **PLAINTIFF'S ORIGINAL PETITION**

Came to hand on the _____ day of _______________, 20____ at ______o'clock _____M. and executed on the _____ day of ____________________, 20____ by delivering to the party designated in the citation, to-wit:

____

____

at ________o'clock ___M; in person, a true copy of this citation with a true and correct copy of the pleading attached thereto, having first endorsed on such copy of said citation the date of delivery.

FEES: Serving one (1) copy ______________________________

Total $______________

NO SHERIFF OR CONSTABL. FEES COLLECTED

______________________________ County, Texas

By ______________________________

NOT EXECUTED FOR THE FOLLOWING REASONS ______________________________

and having attempted on ____.

"My name is ____________________ (First) __________ (Middle) ____________________ (Last), my date of birth is ______________________________, and my address is ____________________

____.

I declare under penalty of perjury that the foregoing is true and correct. Executed in ______________ County, State of Texas, on the ________ day of ____________________ (Month) ________ (Year)

____ (Signature) Declarant"

See Attached Return of Service

COURT: **170th District**
COUNTY: **McLennan**
NO: **2014-3334-4**

AFFIDAVIT OF SERVICE

Business/Corporation

Plaintiff

Reggenal G. Smith

Defendant

Fleetwood Homes also known as Fleetwood Homes of Texas; Fleetwood Homes, Inc., & Cavco Industries, Inc

I, Mark S. Burrow, make statement to the fact; that I am a person more than 18 years of age and not a party to this action. I am an approved Process Server authorized by the Supreme Court of the State of Texas and remain in good standing. I received the documents stated below on **August 29, 2014** at the time of **09:04 AM.**

That I delivered to:	Fleetwood Homes Inc.,by serving their Registered Agent, Corporation Service Company
At the address of:	211 East 7th Street, Suite 620, Austin, Texas 78701 in County of Travis
On this date and time:	September 02, 2014 at 1:30 PM
In the manner:	By personally delivering the document(s) to the AUTHORIZED PERSON, Kelly Courtney, Receiving Clerk
The following documents:	Citation; Plaintiff's Original Petition

I SOLEMNLY AFFIRM under the penalties of perjury that the contents of the foregoing paper are true, correct, and within my personal knowledge.

[signature]

Mark S. Burrow, SCH275
Exp. Date: 12/31/2015

Subscribed and sworn to before me, a notary public, on the 2nd day of September, 2014, by the affiant who is personally known by me.

Sofia Dominguez

Notary of Public for the State of Texas

SOFIA DOMINGUEZ
Notary Public, State of Texas
My Commission Expires
May 14, 2017

Wash and Thomas
Ref#:
Job ID: 14-021769

Service Fee: $ 45.00

FILED **Roberta Jewell**
MCLENNAN COUNTY
9/3/2014 9:06:25 AM
KAREN C. MATKIN
DISTRICT CLERK

CITATION

PAPER# 3
CEN-TEX

ORIGINAL

THE STATE OF TEXAS

Cause No: 2014-3334-4

TO: CAVCO INDUSTRIES, INC., DEFENDANT - BY SERVING THEIR REGISTERED AGENT, CORPORATION SERVICE COMPANY

GREETINGS:

YOU ARE HEREBY COMMANDED to appear before the Honorable District Court below, of McLennan County, Texas, at the Courthouse of said County located at 501 Washington Avenue in Waco, Texas, by filing a written answer with the Clerk of the Court, at or before 10 o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation, to the pleading described below, in the cause number described below on the docket of said court, and styled,

PARTIES TO THIS ACTION ARE:

REGGENAL G. SMITH Plaintiff

VS.

FLEETWOOD HOMES A/K/A FLEETWOOD HOMES OF TEXAS, FLEETWOOD HOMES, INC., AND CAVCO INDUSTRIES, INC. Defendants

Court: **170TH JUDICIAL DISTRICT**
Pleading: **PLAINTIFF'S ORIGINAL PETITION**
Pleading File Date: **AUGUST 26, 2014**
Cause No: **2014-3334-4**

NOTICE

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The officer executing this citation shall promptly serve the same according to requirements of law, and the mandates hereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL OF OFFICE, at Waco, McLennan County, Texas.
Issue Date: **AUGUST 28, 2014.**

DANNY C. WASH
6613 SANGER AVE.
WACO, TEXAS 76710

Attorney for Plaintiff

Karen C. Matkin, District Clerk
P.O. Box 2451
Waco, McLennan County, Texas 76703
By: ______, Deputy
MAXINE BARTON

EXHIBIT
A-4

1 4 9 0 4 3 3 8 1

RETURN OF SERVICE

Style: **REGGENAL G. SMITH VS. FLEETWOOD HOMES A/K/A FLEETWOOD HOMES OF TEXAS, FLEETWOOD HOMES, INC., AND CAVCO INDUSTRIES, INC.**
Cause No: **2014-3334-4**
Court: **170TH JUDICIAL DISTRICT**
Paper#: **3**
Pleading: **PLAINTIFF'S ORIGINAL PETITION**

Came to hand on the _____ day of ________________, 20____ at ______o'clock ____M. and executed on the _____ day of ____________________, 20____ by delivering to the party designated in the citation, to-wit:

____

____

at ________o'clock ___M; in person, a true copy of this citation with a true and correct copy of the pleading attached thereto, having first endorsed on such copy of said citation the date of delivery.

FEES: Serving one (1) copy ________________________

Total $______________ ________________________ County, Texas

NO SHERIFF OR CONSTABLE FEES COLLECTED

By ________________________

NOT EXECUTED FOR THE FOLLOWING REASONS ________________________

and having attempted on ________________________.

"My name is ________________ (First) __________ (Middle) ________________ (Last), my date of birth is ________________________, and my address is ________________

____.

I declare under penalty of perjury that the foregoing is true and correct. Executed in ____________ County, State of Texas, on the ________ day of ________________ (Month) ________ (Year)

____ (Signature) Declarant"

See Attached Return of Service

COURT: **170th District**
COUNTY: **McLennan**
NO: **2014-3334-4**

AFFIDAVIT OF SERVICE

Business/Corporation

Plaintiff
Reggenal G. Smith

Defendant
Fleetwood Homes also known as Fleetwood Homes of Texas; Fleetwood Homes, Inc., & Cavco Industries, Inc

I, Mark S. Burrow, make statement to the fact; that I am a person more than 18 years of age and not a party to this action. I am an approved Process Server authorized by the Supreme Court of the State of Texas and remain in good standing. I received the documents stated below on **August 29, 2014** at the time of **09:04 AM**.

That I delivered to:	Cavco Industries, Inc.,by serving their Registered Agent, Corporation Service Company
At the address of:	211 East 7th Street, Suite 620, Austin, Texas 78701 in County of Travis
On this date and time:	September 02, 2014 at 1:30 PM
In the manner:	By personally delivering the document(s) to the AUTHORIZED PERSON, Kelly Courtney, Receiving Clerk
The following documents:	Citation; Plaintiff's Original Petition

I SOLEMNLY AFFIRM under the penalties of perjury that the contents of the foregoing paper are true, correct, and within my personal knowledge.

Mark S. Burrow; SCH275
Exp. Date: 12/31/2015

Subscribed and sworn to before me, a notary public, on the 2nd day of September 2014, by the affiant who is personally known by me.

Sofia Dominguez
Notary of Public for the State of Texas

SOFIA DOMINGUEZ
Notary Public, State of Texas
My Commission Expires
May 14, 2017

Wash and Thomas
Ref#:
Job ID: 14-021770

Service Fee: $ 45.00

FILED
MCLENNAN COUNTY
9/17/2014 1:00:15 PM
KAREN C. MATKIN
DISTRICT CLERK
Dana Shane

CAUSE NO. 2014-3334-4

REGGENAL G. SMITH,	§	**IN THE DISTRICT COURT**
	§	
Plaintiff,	§	
	§	
v.	§	**170th JUDICIAL DISTRICT**
	§	
FLEETWOOD HOMES a/k/a FLEETWOOD HOMES OF TEXAS; FLEETWOOD HOMES, INC. and CAVCO INDUSTRIES, INC.,	§ § § §	
	§	
Defendants.	§	**McLENNAN COUNTY, TEXAS**

DEFENDANTS' GENERAL DENIAL AND AFFIRMATIVE DEFENSES

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME, Fleetwood Homes, Inc. d/b/a Fleetwood Homes of Texas ("Fleetwood") and Cavco Industries, Inc. ("Cavco"), Defendants in the above-entitled and numbered cause (hereinafter collectively referred to as "Defendants"), and file this their General Denial and Affirmative Defenses to Plaintiff's Original Petition and would respectfully show the Court as follows:

EXHIBIT
A-5

I. GENERAL DENIAL

1. Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendants hereby enter a general denial, denying each and every, all and singular, the allegations, charges and claims contained in Plaintiff's Original Petition, and demand strict proof thereof.

II. AFFIRMATIVE DEFENSES

2. Plaintiff's claims for damages are barred in whole or in part by statutory caps applicable to Plaintiff's claims.

3. Defendants exercised reasonable care to prevent and correct promptly any unlawfully harassing and/or discriminatory workplace conduct allegedly experienced by

Plaintiff; Plaintiff unreasonably failed to take advantage of any preventive or corrective opportunities provided by Defendants or to avoid harm otherwise, and thus Plaintiff's claims are barred.

4. Plaintiff's claims for damages are barred in whole or in part by the affirmative defense of mixed motive.

PREMISES CONSIDERED, Defendants pray that Plaintiff takes nothing by his suit, and that they be allowed to go hence with their costs without delay, and for such other and further relief, both at law and in equity, to which they may show themselves justly entitled. Defendants pray for general relief.

Respectfully submitted,

/s/ *Russell D. Cawyer*

Russell D. Cawyer
State Bar No. 00793482
Ezra R. Kuenzi
State Bar No. 24078808
KELLY, HART & HALLMAN LLP
201 Main Street, Suite 2500
Fort Worth, Texas 76102
(817) 878-3558
(817) 878-9280 (Fax)
russell.cawyer@kellyhart.com
ezra.kuenzi@kellyhart.com

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

On September 17, 2014, I electronically submitted the foregoing document with the Clerk of the Court of the 170th District County, McLennan County using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Texas Rule of Civil Procedure 21a(a).

/s/ *Russell D. Cawyer*
Russell D. Cawyer